



ASSESSMENT APPEALS BOARD

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LOCAL RULES

as amended effective April 8, 2003

**LOCAL RULES
OF THE
ASSESSMENT APPEALS BOARD
OF FRESNO COUNTY**

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**LOCAL RULES
OF THE
ASSESSMENT APPEALS BOARD
OF FRESNO COUNTY**

Note: These local rules supplement the statewide Property Tax Rules.

1. STATE BOARD RULES.

The Board, the assessor, and the applicant shall follow the rules of the State Board of Equalization governing local equalization as set forth in Title 18 of the California Code of Regulations (hereafter "Property Tax Rules"), as the same may from time to time be amended (presently §§ 301-326).

2. FILING OF APPLICATION.

a. Application Filed by Attorney.

If the application is made by an attorney licensed to practice in the State of California who has been retained and authorized by the applicant to file the application, as provided by Property Tax Rule 305, subdivision (a), the "person to contact" section of the application form shall list the attorney's own name, mailing address, telephone and fax numbers, and e-mail address (if any), or that of another attorney in his or her firm.

b. Notice of Invalidity of Incomplete Application.

When an application is invalid for failure to include the information required under Property Tax Rule 305, the notice sent by the Clerk as required by Rule 305 shall include:

(1) A general statement of the information required to complete the application, and

(2) The date by which the applicant must file an amended application.

c. Filing Deadline for Amended Application.

(1) The filing deadline for an amended application shall be the later of the following dates:

(a) 30 days after the date printed on the clerk's notice, or the postmark therefor, whichever is later, or

(b) The last date an original application must otherwise be filed by the applicant.

(2) The rules for timely filing under Property Tax Rule 305, subdivisions (d)(4) and (d)(5), shall apply to the deadline for filing of the amended application.

(3) For purposes of this Local Rule, the term "the last date an original application must be filed" means sixty (60) days from the date of mailing of the notice of assessment, for applications involving escape or supplemental assessments, or September 15 or November 30 (depending on the assessor's annual decision under Rev. & Tax. Code, § 1603), for all other applications.

(4) If the Clerk has mailed notice of invalidity to the applicant, with the filing deadline specified as set forth above, the applicant shall file an amended application by the date so specified. An amended application filed thereafter shall be rejected as untimely.

d. Prohibition of Filing By Facsimile.

Applications may not be submitted by facsimile to the Board for filing. Applications must bear original signatures and be mailed or hand-delivered to the Board.

3. APPLICATION IN REGARD TO ASSESSMENT OUTSIDE REGULAR ASSESSMENT PERIOD.

As authorized by Revenue and Taxation Code section 1605, subdivision (d), the Board hereby prescribes the time for equalization of assessments made outside the regular assessment period, including assessments made pursuant to Revenue and Taxation Code sections 501, 503, 504, 531, and 531.5 as 60 days after the date appearing on the face of the assessor's notice. In order to be considered timely, an application in regard to such an assessment must be filed within this time.

4. UNTIMELY APPLICATION.

a. Notice of Right to Petition for Reconsideration.

The clerk shall reject as untimely any application which does not show by postmark or other objective indication that it was filed or mailed in a timely manner. The Clerk shall give prompt written notice to an applicant if an application is invalid for untimeliness. The written notice shall include:

(1) A statement that the application has been rejected for untimeliness;

(2) A statement that the applicant has a right to petition the Board to reconsider the decision regarding the timeliness of the application;

(3) A statement that the Board does not have jurisdiction over untimely applications, and thus can only reconsider its decision if the petition includes sufficient additional facts (and documents, if applicable) to show that the application was in fact filed within the time provided by law; and

(4) The date by which the applicant must file the petition, if any, which shall be ten (10) business days from the date of mailing of the notice.

b. Procedure If Petition for Reconsideration Filed.

If the Clerk has mailed notice of untimeliness to the applicant, with the filing deadline specified as set forth above, the applicant shall file any petition for reconsideration by the date so specified. If the petition is timely filed, the Clerk shall set the matter for hearing solely on the issue of timeliness. If the petition is untimely, it shall be deemed rejected by the Board.

5. WITHDRAWAL OF APPLICATION.

An application may be withdrawn at any time prior to or at the time of the hearing upon written request signed by the applicant or agent so long as written notice of an increase in the assessed value of the property has not already been given to the applicant by the assessor. If a written notice of a proposed increase in the assessed value of the property has been given to the applicant by the assessor, and a copy of such notice has been filed by the assessor with the Clerk, prior to the date the written request for withdrawal is received by the Clerk, then the application may be withdrawn only by stipulation with the assessor.

6. POSTPONEMENTS AND CONTINUANCES.

a. First Request Received at Least 21 Days Before Hearing.

As provided by Property Tax Rule 323, each party shall be entitled to one postponement as a matter of right, if the request is received by the Clerk not later than 21 days before the hearing is scheduled to commence.

(1) Postponements by the Clerk.

If the request is received at least 120 days before the expiration of the two-year limitation period provided in Revenue and Taxation Code section 1604, the Clerk shall grant the postponement as of right to each party without Board approval, provided the hearing can be rescheduled for

a date more than 45 days prior to the date of expiration of the two-year period.

(2) Postponement by the Board.

If the request is received by the Clerk less than 120 days before the expiration of the two-year period provided in Revenue and Taxation Code section 1604, the Board must grant or hear the request for postponement.

(a) Request by the applicant.

The applicant or agent need not appear in person, if the request is made in writing, and is accompanied by the applicant's written agreement to extend and toll the two-year period indefinitely, as required by Property Tax Rule 323.

(b) Request by the assessor.

The assessor must appear in person, but the request need not be made in writing.

(c) Request by written stipulation.

Neither party is required to appear in person, provided the written stipulation is accompanied by the applicant's written agreement to extend and toll the two-year period indefinitely, as required by Property Tax Rule 323.

b. First Request Received Less Than 21 Days Before Hearing.

(1) Postponement by the Chair.

First postponement requests received by the Clerk less than 21 days before the hearing, but no later than 4:00 p.m. on the last business day before the hearing, may be granted for good cause by the Chair. The procedure shall be as follows:

(a) The request shall be submitted to the Clerk. Requests shall be in writing, but the Clerk may accept an initial oral request if the written request is received by the Clerk by 5:00 p.m. on the next business day, or by 4:00 p.m. on the same day, if the request is not made until the last business day before the hearing.

(b) The Clerk shall determine whether the hearing can be rescheduled for a date more than 45 days prior to the date of expiration of the two-year period within which the Board must reach a final determination regarding the application under Revenue and

Taxation Code section 1604, subdivision (c). If the hearing cannot be rescheduled, the Clerk shall deny the request.

(c) If the hearing can be rescheduled, the Clerk shall contact the Chair, who shall determine whether the requesting party has shown good cause for the request, and shall advise the Clerk of his or her decision. The Clerk shall advise the parties of the Chair's decision.

(2) Postponement by the Board.

If the Clerk or Chair denies the request, the requesting party may make a subsequent request to the Board as provided below.

Requests made after 4:00 p.m. on the last business day before the hearing must be heard and decided by the Board.

c. Late and Subsequent Requests.

All requests for postponement or continuance made after 4:00 p.m. on the last business day before the hearing, and all subsequent requests, shall be heard and decided by the Board. It is the Board's policy to encourage the parties to be prepared for hearings as scheduled. Therefore, the Board will postpone or continue a hearing only upon a showing of good cause for the postponement or continuance. The Clerk shall advise the parties that they should appear in person and be prepared to proceed as scheduled if the request for postponement or continuance is denied.

7. PREHEARING PROCEDURES.

a. Requests for Additional Time or to Resolve Other Procedural Matters.

The applicant and the assessor shall generally be limited to one hour each for their presentations, including any rebuttal time. At any time up to seven calendar days before the hearing, an applicant or the assessor, or both parties together, may submit to the Clerk a written request for additional time, which must include an estimate of the time required.

An applicant or the assessor, or both parties together, may also, at any time up to seven calendar days before the hearing, submit written requests to the Clerk regarding any other procedural matter which the party or parties wish to resolve before the hearing.

b. Prehearing Decisions by the Chair.

The Clerk shall advise the Chair of the requests, and the Chair may decide the procedural questions. The Chair may contact the parties and discuss

issues such as, but not limited to, the time limits which will apply to the particular hearing, bifurcating the issues, requests for prehearing briefs, etc. The Chair shall not receive any evidence or consider the merits of the application in any manner. If the Chair decides a procedural matter, the Chair may advise the parties directly of his or her decision or may advise the Clerk, who shall then promptly advise the parties. The Chair may also determine that a particular issue should not be decided by the Chair, but should instead be deferred to the time of the hearing and be considered by the Board.

8. PRE-MARKING AND COPYING OF EXHIBITS PRIOR TO HEARING.

a. Pre-Marking and Copying in General.

Prior to the hearing, the parties shall serially pre-mark for identification each item of documentary evidence which they intend to introduce as evidence at the hearing. The applicant shall serially pre-mark exhibits for identification with letters (Applicant's Exhibit "A", Applicant's Exhibit "B", etc.), and the assessor shall serially pre-mark exhibits for identification with Arabic numerals (Assessor's Exhibit "1", Assessor's Exhibit "2" etc.), in the order in which that party intends to introduce them as evidence. The applicant and the assessor shall photocopy the pre-marked exhibits, and shall bring seven complete sets of pre-marked exhibits to the hearing.

b. Failure to Bring Seven Complete Sets of Pre-Marked Copies.

The Board disfavors the waste of administrative resources and time occasioned by parties' failure to bring seven complete sets of pre-marked exhibits to the hearing. If either party fails to bring seven complete sets of pre-marked exhibits to the hearing, the Chair may on his or her own motion continue the hearing, and may comment upon the party's lack of preparedness to proceed as scheduled. Alternatively, the Chair may direct the Clerk to make whatever photocopies are necessary to satisfy the requirements of this rule, and, if the applicant is the party who has failed to bring seven complete sets of pre-marked exhibits to the hearing, the applicant shall immediately pay to the Clerk all photocopying charges as set forth in the Master Schedule of Fees.

9. STENOGRAPHIC REPORTS AND TRANSCRIPTS.

a. Deposit Required When Requesting Reporter.

Any request by the applicant under Property Tax Rule 312 to have the Clerk provide for a stenographic reporter must be accompanied by a deposit in the amount of the per diem fee specified for a reporter pro tempore set forth in Government Code section 70046.2, as the same may from time to time be amended.

b. Transcripts.

The Clerk shall comply with a request under Property Tax Rule 312 to purchase a transcript by providing copies of the audio tapes from the hearing. The fee shall be the same as the fee charged by the Board of Supervisors for copies of audio tapes. If so requested, the Clerk shall then correct and certify as correct the transcript prepared by the requesting party.

When a stenographic reporter was present at the hearing, the Clerk shall provide the requesting party with the contact information for the reporter, and need not provide copies of audio tapes if the requesting party prefers to obtain a transcript from the reporter. Any transcript prepared by a reporter shall likewise be corrected and certified as correct by the Clerk upon request.

10. RECONSIDERATION AFTER FAILURE TO APPEAR FOR HEARING.

a. Filing Request.

Not later than 30 days after the Clerk has mailed a copy of any decision denying an application under Property Tax Rule 313 for failure to appear, the applicant or the applicant's agent may file with the Clerk a written request for reconsideration, verified under oath or penalty of perjury, asking the Board to vacate the denial and set the matter for hearing solely on the question of excuse for lack of appearance or lack of a timely request for postponement. The written request shall include a statement of the particular facts upon which the applicant bases the claim that the application should be reconsidered.

b. Hearing on Request.

After notice to the assessor and the applicant, and after hearing solely on the question of excuse for lack of appearance or lack of a timely request for postponement, the Board may grant the request if the applicant shows by a preponderance of the evidence that the failure to appear or to make a timely request for postponement was the result of unforeseen and compelling circumstances, which arose in such a manner as to make a timely request impossible or impracticable, provided that the hearing can be held within the two-year period provided by law or any extension thereof agreed to by the applicant.

c. Hearing on Merits.

If the request is granted, the application shall be reset for hearing or, upon stipulation of the parties, may be heard immediately.

11. CONDUCT OF HEARING.

The hearing on an application shall proceed as follows:

a. Clerk's Recitation of Contents of Application.

In reciting the contents of the application as required by Property Tax Rule 313, subdivision (b), the Clerk shall include the assessor's appraisal of taxable value, if different from the assessed value on the roll, the facts relied upon to support the requested change in value, and whether written Findings of Fact have been requested and the fee therefor paid.

b. Determination Whether Partial Stipulation Reached.

The Clerk shall inform the Chair if there is a stipulation for reduction or increase for a portion of the application. The Board may accept the stipulation, or reject the stipulation and set or reset that portion of the application for hearing, or, if appropriate, immediately hear that portion as well.

c. Swearing of Witnesses.

Any and all persons whom the applicant and the assessor intend to call as witnesses shall be sworn by the Clerk at the same time.

d. Opening Statements.

The Chair shall require the applicant and the assessor to give brief opening statements of the issues presented by the application, and the evidence supporting that party's position on each issue. The Chair may allow the party which does not have the burden of going forward to reserve the opening statement until that party's presentation of evidence.

e. Hearings Involving Multiple Tax Years.

In hearings involving multiple tax years, the parties shall present evidence chronologically, with evidence of the earliest tax year presented first.

12. RULES OF EVIDENCE.

a. Technical Objections.

The Board disfavors technical objections to evidence. The following are not recognized as grounds for objections to evidence: the hearsay rule, the best evidence rule, the opinion rule, calls for speculation, assumes a fact not in evidence, calls for a narrative answer, and the doctrine of authentication. Although relevant evidence shall not be excluded on these grounds, the Board nevertheless shall consider, and may allow a party to comment upon, the degree of persuasiveness and reliability of the evidence presented, and the appropriate weight to be accorded to such evidence, such as direct evidence as compared to hearsay.

b. Documents.

(1) General rule for documents which do not constitute appraisal reports.

Except as otherwise provided below, a document is not made objectionable, on the ground of lack of opportunity to cross-examine its maker, by the failure of the proponent of the evidence to produce its maker at the hearing. However, a party desiring the attendance of the maker of a document may seek to compel the maker's attendance by subpoena.

(2) Specific rule for appraisal reports.

If a party offers an appraisal report as evidence of the value of the subject property, then the party must produce at the hearing the maker of the report, or else upon the timely objection of the adverse party, the Chair may exclude the report on the ground that there is no opportunity to cross-examine the maker of the document. However, this rule shall not apply with respect to: (a) any application involving an owner-occupied single-family dwelling with a total net assessed value of less than \$250,000; or (b) any application where the total net assessed value less the applicant's opinion of full cash value yields a difference of less than \$50,000.

c. Presumption Concerning Qualifications of Assessor's Appraisers.

The Board hereby finds and declares that the assessor's presentation of evidence to qualify the assessor's appraisers as experts constitutes a waste of administrative resources. There shall be a rebuttable presumption that the assessor's appraisers are qualified to render expert testimony concerning valuation issues.

13. TRADE SECRETS PRESENTATION.

If a portion of the hearing is closed under Property Tax Rule 313, subdivision (g)(2), in order to present evidence relating to trade secrets, the Board shall take appropriate steps to ensure the confidentiality of the evidence, such as using a separate audio tape, and shall also ensure that the record of the hearing clearly indicates that a trade secrets presentation is included.

14. DECISION OF THE BOARD.

If a matter is taken under submission as provided by Property Tax Rule 325, the Board shall announce its decision at the next public meeting following its deliberations.

15. FINDINGS OF FACT.

a. Fee for Findings.

If Findings of Fact are requested by the applicant, the applicant shall pay to the Clerk, prior to the commencement of the hearing, the fee required under the Master Schedule of Fees to cover the cost of preparing the Findings of Fact. The fee shall not be refundable unless the applicant withdraws the request upon conclusion of the hearing, in which case the fee shall be refunded. The assessor shall not be required to pay the fee.

b. Preparation of Findings.

The Board's counsel shall prepare the findings. The Board's counsel shall distribute the draft findings to each member of the Board which heard the application. The Board members may discuss the draft findings among themselves, and the Chair for that hearing shall advise the Board's counsel of any changes required prior to adoption.

Either or both parties shall provide such information to the Board's counsel as needed to complete the findings in a timely manner. If the information is not provided in a timely manner, the deadline for the preparation of findings shall be tolled until the information is provided.

c. Adoption of Findings and Provision to Parties.

The Board shall adopt its findings within 45 days after the final determination of the Board is entered into the record. The method of adoption shall normally be to meet and vote on adoption. However, if it is impracticable for the Board to meet, the Board may adopt findings by signing and filing them with the Clerk. If the findings are filed without a meeting, they shall include a description of why it was impracticable to meet, and shall be signed by at least a majority of the members who heard the application; if the third member's signature cannot be obtained, the findings shall also include the reason for the lack of signature.

After adoption, the Clerk shall provide a copy of the findings to the applicant and the assessor.

16. NOTICE TO THE PARTIES.

Where notice by the Board, its Clerk or its counsel is required by the Revenue and Taxation Code, by the Property Tax Rules, or by these Local Rules, for purposes of computing the period within which notice must be given, there shall be a rebuttable presumption that the notice was given on the date indicated on the face of the notice.

17. INTERNAL BOARD MATTERS.

a. Selection of Chair and Vice-Chair.

The Chair and the Vice-Chair of the Board shall be selected annually by majority vote of the regular members of the Board, at the first meeting held after September 1 of each calendar year. The Chair and the Vice-Chair may succeed themselves in office.

b. Duties and Authority of Chair and Vice-Chair.

The Chair shall preside over all meetings of the Board. In the Chair's absence, the Vice-Chair shall assume the duties and authority of the Chair. If neither the Chair nor the Vice-Chair is present at any given meeting, then the remaining members present at the meeting shall select, by majority vote, a Chair pro tempore to preside over such meeting and only such meeting.

18. COPIES OF RULES.

Copies of these Local Rules together with a copy of the Property Tax Rules shall be kept on file in the Clerk's Office and shall be available for public inspection at all times during regular business hours. The Clerk shall also request that a copy of the Local Rules and a hypertext link to the Property Tax Rules be posted on the County's Website with other AAB information.

HISTORY

1. *Approved by AAB Dec. 5, 1994, adopted by BOS Dec. 6, 1994.*
2. *Amendments approved by AAB Jun. 2, 1999, adopted by BOS Jun. 8, 1999.*
3. *Amendments approved by AAB Mar. 21, 2001, adopted by BOS Apr. 3, 2001.*
4. *Amendments approved by AAB Mar. 12, 2003, adopted by BOS Apr. 8, 2003.*